

JOURNAL OF THE HOUSE.

Thursday, January 15, 2004.

Met at twenty-four minutes after six o'clock P.M., with Mr. DiMasi of Boston in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Prayer.

God, Our Creator, at the opening of this evening's formal legislative session, we pause for a moment of prayer and reflection and focus our attention and thoughts on You and on spiritual values. In this changing political, economic and cultural world of standards and goals, we, as legislators, seek Your guidance and also a deepening of our trust and belief in You. In Your goodness, bless our efforts to offer to You and the people who depend upon our mature judgments and our commitment to make our communities responsive to the needs of all, especially to people who depend upon others for their daily existence. In remembrance on Monday of the seventy-fifth birthday of Dr. Martin Luther King, Jr., clergyman and civil rights leader, we renew our determination to continue his dedication to equal, civil, human and religious rights for all in our diverse society. May our hearts and minds be open to the importance of the virtues of justice, truth and integrity in dealing with people, issues and policies.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

Pledge of allegiance.

At the request of the Chair (Mr. DiMasi), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Message from the Governor.

Williamsburg, validate act.

A message from His Excellency the Governor (under the provisions of Section 8 of Article LXXXIX of the Amendments to the Constitution) recommending legislation relative to validating the action taken at a special town meeting held by the town of Williamsburg (House, No. 4445) was filed this day in the office of the Clerk.

The message was read; and it was referred, under Rule 30, with the accompanying draft of a bill, to the committee on Local Affairs and Regional Government. Sent to the Senate for concurrence.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

George E. Dow, Sr.

Resolutions (filed by Messrs. Jones of North Reading and Hill of Ipswich) congratulating George E. Dow, Sr. on the occasion of his retirement;

Framingham, Martin Luther King Jr. Breakfast.

Resolutions (filed by Representatives Blumer of Framingham, Linsky of Natick, Loscocco of Holliston, Pope of Wayland and Spilka of Ashland) congratulating Greater Framingham Community

Church on the occasion of its seventeenth annual Martin Luther King, Jr. Breakfast;

Resolutions (filed by Representatives Linsky of Natick and Peisch of Wellesley) congratulating Richard Douglas on the occasion of his retirement;

Richard Douglas.

Resolutions (filed by Mr. Miceli of Wilmington) honoring Deputy Chief Denise L. Gundrum on her retirement from the Tewksbury Police Department;

Denise L. Gundrum.

Resolutions (filed by Mr. Miceli of Wilmington) honoring Chief John R. Mackey on his retirement from the Tewksbury Police Department as Chief of Police;

John R. Mackey.

Resolutions (filed by Messrs. O'Brien of Kingston and Nyman of Hanover) congratulating Albert Thomas Lynch, Jr. on the occasion of his retirement; and

Albert Thomas Lynch, Jr.

Resolutions (filed by Ms. Polito of Shrewsbury) commending Captain Scott Speicher on his heroic acts and Friends Working to Free Scott Speicher for their efforts;

Scott Speicher.

Mr. Scaccia of Boston, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. Miceli, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Reports of Committees.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the petition of Eugene L. O'Flaherty relative to the establishment of a sick leave bank for Sheila Mahan, an employee of the Trial Court of the Commonwealth. Under suspension of the rules, on motion of Mr. O'Flaherty of Chelsea, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on the Judiciary. Sent to the Senate for concurrence.

Sheila Mahan, sick leave bank.

Pursuant to assignment, at eight minutes past seven o'clock, the two branches met in

JOINT SESSION

In the Chamber of the House of Representatives, for the purpose of receiving such communication as His Excellency Mitt Romney, Governor of the Commonwealth, may be pleased to make relative to the concerns of the Commonwealth; and were called to order by the Honorable Robert E. Travaglini, president of the Senate.

Joint session of the two branches.

Order Adopted.

On motion of Mr. Berry,—

Ordered, That a committee be appointed to consist of members of the Senate and the House of Representatives to wait upon the Governor and inform him that the two branches are now in Convention for the purpose of receiving such communication as he may be pleased to make to them, relating to the concerns of the Commonwealth.

Notification of Governor.

Senators Murray, Walsh, Wilkerson and Tisei were appointed on the part of the Senate; and Representatives DiMasi of Boston, Harkins of Needham, Fennell of Lynn, Hargraves of Groton, Brown of Wrentham, Reinstein of Revere, Spiliotis of Peabody, Flynn of Bridgewater, Knuttilla of Gardner, St. Fleur of Boston, Petrolati of Ludlow and Kane of Holyoke.

Subsequently, Mr. Flynn of Bridgewater, for the committee, reported that His Excellency the Governor, Mitt Romney, would immediately attend upon the convention.

Shortly thereafter, His Excellency the Governor, Mitt Romney, Her Honor Kerry Healey, Lieutenant-Governor, William F. Galvin, Secretary of the Commonwealth, Thomas F. Reilly, Attorney General of the Commonwealth, Timothy P. Cahill, Treasurer and Receiver-General of the Commonwealth, A. Joseph DeNucci, Auditor of the Commonwealth and Major General George W. Keefe, The Adjutant General entered the Chamber under the escort of the Sergeant-at-Arms.

The President introduced the Color Guard from the 25th Marine Regiment of the Fourth Marine Corps Division headquartered in Worcester.

The Pledge of Allegiance was led by Brian and Alma Hart of Bedford, whose son, John, died in the Iraqi conflict.

The National Anthem was performed by Jillian Russell of Worcester. Her father is stationed in Iraq with the Massachusetts National Guard 110th Maintenance Company.

Invocation.

The Speaker, having taken the Chair, then introduced His Eminence, Archbishop Sean O' Malley who gave the following Invocation:

Let us pray:

Almighty and eternal God, Creator and Preserver of us all, from the earliest days of our Commonwealth to this moment, we citizens of Massachusetts have sought the favor of Your mercy and protection.

As we gather together tonight in this historic chamber, we raise our hearts and minds in prayer as we acknowledge Your goodness, appeal to Your providence and implore Your direction.

Assist Governor Romney with Your spirit of counsel and fortitude as he addresses us this night and in all that he does as chief executive of Massachusetts. May his administration be conducted in righteousness and be eminently responsive to Your people whom he governs.

We beseech Your abundant blessings upon Lieutenant-Governor Healey, our legislators in both the Senate and the House of Representatives, our Constitutional Officers, the members of our Judiciary and all the men and women who are entrusted to guard our political welfare.

May all our public officials be enabled by Your powerful protection to discharge their duties with honesty and ability. Provide them with breadth of vision and firmness of purpose. Guide their deliberations and grant them the wisdom to make respon-

sible and compassionate decisions. Help them to be ever mindful of the solemn compact which unites us as citizens of this Commonwealth. Inspire them to always act justly in the best interests of those whom they serve and to advance the common good.

We likewise commend to Your unbounded mercy all the people of Massachusetts, especially the poor and the vulnerable among us, that we may all be blessed in the knowledge and sanctified in the observance of Your holy law. Help us to be responsible citizens who heed Your call to love our neighbor and welcome the stranger. May we be respectful of one another and strive to live together in liberty and peace.

We pray to You, Who are Lord and God, forever and ever.
Amen.

The President, having returned to the Chair, then introduced Lieutenant-Governor Kerry Healy, who then introduced Ms. Jennifer Hushaw.

Ms. Hushaw, a senior at Winchendon High School, then recited the Edgar A. Guest poem "*It Couldn't Be Done.*"

The Lieutenant-Governor then introduced the Madrigal Singers of Holyoke High School who performed "*God Bless America.*"

The President then introduced His Excellency the Governor, Mitt Romney, who thereupon addressed the Convention relative to the concerns of the Commonwealth (Senate, No. 2).

The Speaker, having taken the Chair, then introduced Reverend Jeffrey L. Brown, pastor of the Union Baptist Church of Cambridge, who gave the following Benediction:

Forty years ago, this year, the Rev. Dr. Martin Luther King, Jr. received the Nobel Peace Prize. He accepted that award on your behalf. He accepted it, on behalf of our community, on behalf of this great state, on behalf of this nation. On this occasion, held on the anniversary of his birth, We should pause and heed the words of his Nobel Acceptance speech as a fitting benediction, and hear his words afresh for the work before us.

(can we bow our heads, and hold hands together)

"I accept this award today with an abiding faith in America and an audacious faith in the future of mankind. I refuse to accept despair as the final response to the ambiguities of history. I refuse to accept the idea that the "isness" of man's present nature makes him morally incapable of reaching up for the eternal "oughtness" that forever confronts him. I refuse to accept the idea that man is mere flotsom and jetsom in the river of life unable to influence the unfolding events which surround him. I refuse to accept the view that mankind is so tragically bound to the starless midnight of racism and war that the bright daybreak of peace and brotherhood can never become a reality.

"I believe that what self-centered men have torn down men other-centered can build up. I still believe that one day mankind will bow before the altars of God and be crowned triumphant over war and bloodshed, and nonviolent redemptive good will proclaimed the rule of the land. "And the lion and the lamb shall lie down together and

Lieutenant-Governor Kerry Healy.

Benediction.

Pledge of allegiance.

National Anthem.

Invocation.

Benediction.

every man shall sit under his own vine and fig tree and none shall be afraid." I still believe that We Shall overcome!

"This faith can give us courage to face the uncertainties of the future. It will give our tired feet new strength as we continue our forward stride toward the city of freedom. When our days become dreary with low-hovering clouds and our nights become darker than a thousand midnights, we will know that we are living in the creative turmoil of a genuine civilization struggling to be born."

Help us O God, as we struggle together in this creative turmoil, giving birth to genuine community, help us to resist drinking the dark cauldron that threatens to destroy our dreams of dignity and freedom of spirit for all. Bless our children, both here and abroad, and protect them, as they face their hour of valiancy. We today celebrate our collective faith in our common wealth. And also the redemptive hope that we can yet learn to live together and break bread together. Grant us courage to be the trustees of that hope.

And let every heart say Amen.

Una Voce
Chorus.

The Speaker then introduced the Una Voce Chorus of the Massachusetts Art Academy who performed "*Aina-Dat Good News*", as the closing song.

The President in the Chair, His Excellency the Governor, Mitt Romney, Her Honor Kerry Healey, the Lieutenant Governor, and the Constitutional Officers then withdrew from the Chamber under the escort of the Sergeant-at-Arms.

At ten minutes past eight o'clock P.M., on motion of Mr. Berry, the Convention was dissolved.

Called to
order.

At eleven minutes after eight o'clock P.M., the House was called to order with Mr. DiMasi of Boston in the Chair.

Paper from the Senate.

Cities/towns,
tax
classification.

The House Bill relative to property tax classification in cities and towns (House, No. 4434) came from the Senate passed to be engrossed, in concurrence, with amendments striking out section 2 (as printed); striking out sections 5 to 9, inclusive (as printed); inserting after section 6 (as printed) the following section:

"SECTION 3A. Said chapter 59 is hereby further amended by inserting after section 5K the following section:—

Section 5L. (a) With respect to each parcel of real property classified as Class 3, commercial, or Class 4, industrial, in each city or town certified by the commissioner to be assessing all property at its full and fair cash valuation, if the board of selectmen of the city or town council, subject to the charter of the municipality, accepts this section, there shall be an exemption equal to not more than \$1,000,000 of assessed value of all Class 3, commercial, and Class 4, industrial, parcels within that city or town. This exemption shall be in addition to any exemptions allowable under section 5. In no instance shall the taxable valuation of such property after all applicable exemptions be reduced below a percentage not less than 70 per cent of its full and fair cash valuation, as specified in the vote to

accept this section. Where, under section 5, the exemption is based upon an amount of tax rather than on valuation, the reduction of taxable valuation for purposes of the preceding sentence shall be computed by dividing the said amount of tax by the commercial and industrial class tax rate of the city or town and multiplying the result by \$1,000. For purposes of this subsection, "parcel" shall mean a unit of real property as defined by the assessors in accordance with the deed for the property and shall include a condominium unit.

(b) The value of exemptions granted under this section shall be borne by the combined value of class 3 commercial property and class 4 industrial property.

(c) In cities and towns that accept this section, a taxpayer aggrieved by the failure to receive this exemption may apply for the exemption to the assessors, in writing, on a form approved by the commissioner, within 3 months after the date on which the bill or notice of assessment was sent.

(d) A timely application filed under this section shall, for the purposes of this chapter, be treated as a timely filed application pursuant to section 59."; in section 1 (as printed), in lines 29 to 51, inclusive, striking out clause (iv) contained therein and inserting in place thereof the following three clauses: "(iv) in fiscal year 2007, 50 per cent subject to such adjustment upward as may be required to provide that the percentage of the total tax levy imposed on any class of real or personal property shall not exceed 183 per cent of the full and fair cash valuation of the taxable property of that class divided by the full and fair cash valuation of all taxable real and personal property in the city or town, (v) in fiscal year 2008, 50 per cent subject to such adjustment upward as may be required to provide that the percentage of the total tax levy imposed on any class of real or personal property shall not exceed 175 per cent of the full and fair cash valuation of the taxable property of that class divided by the full and fair cash valuation of all taxable real and personal property of that city or town, (vi) in fiscal year 2009 and thereafter, in any city or town in which the percentage of the total tax levy imposed on any class of real or personal property exceeded 175 per cent of the full and fair cash valuation of the taxable property of that class divided by the full and fair cash valuation of all taxable real and personal property in the city or town in any of fiscal years 2004, 2005, 2006 or 2007, 50 per cent subject to such adjustment upward as may be required to provide that the percentage of the total tax levy imposed on any class of real or personal property shall not exceed 170 per cent of the full and fair cash valuation of the taxable property of that class divided by the full and fair cash valuation of all taxable real and personal property in the city or town"; and inserting after section 4 (as printed) the following section:

"SECTION 8A. The joint committee on natural resources and agriculture shall study and make recommendations for the reclassification for property tax purposes of agricultural and horticultural land, and for legislation, if any, carrying out those recommendations. The committee shall hold at least one public hearing to take testimony concerning reclassification. The committee shall file a report of its findings and recommendations with the house and

Cities/towns,
tax
classification.

senate committees on ways and means not later than April 30, 2004.”; and by striking out section 3 (as printed).

Under suspension of the rules, on motion of Mr. Casey of Winchester, the amendments were considered forthwith.

Mr. Casey and other members of the House then moved that the House concur with the Senate in its amendment with a further amendment striking out section 3A (inserted by amendment by the Senate) and inserting in place thereof the following section:

“SECTION 3A. The joint committee on taxation shall study and make recommendations for targeted property tax relief to businesses disproportionately impacted by dual tax rates in communities. The committee shall hold at least one public hearing to take testimony concerning reclassification. The committee shall file a report of its findings and recommendations with the house and senate clerks not later than April 30, 2004.”.

The further amendment was adopted. The House then concurred with the Senate in its amendments, as amended. Sent to the Senate for concurrence in the further amendment.

Motion to Suspend Rule 1A.

Suspension
of Rule 1A.

Mr. Cabral of New Bedford being in the Chair,— The Chair then placed before the House the question on suspension of Rule 1A in order that the House might continue to meet beyond the hour of nine o'clock P.M.; and, there being no objection, Rule 1A was suspended.

Emergency Measure.

Cities/towns,
tax
classification.

The engrossed Bill relative to property tax classification in cities and towns (see House, No. 4434, amended), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 3 to 0. Sent to the Senate for concurrence.

Bill
enacted.

Subsequently, the Senate having concurred in adoption of the emergency preamble, the bill (which originated in the House) was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Order.

Next
sitting.

On motion of Mr. Finneran of Boston,—
Ordered, That when the House adjourns today, it adjourn to meet on Tuesday next at eleven o'clock A.M.

At nine minutes after nine o'clock P.M., on motion of Ms. Rogeness of Longmeadow (Mr. Cabral of New Bedford being in the Chair) the House adjourned, to meet on Tuesday next at eleven o'clock A.M.